

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

JASON LEE VAN DYKE  
Plaintiff

v.

THOMAS CHRISTOPHER RETZLAFF  
a/k/a Dean Anderson d/b/a BV Files, Via  
View Files L.L.C., and ViaView Files  
Defendant

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Case No. 4:18cv247

**PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION TO  
STAY DISCOVERY**

**I. INTRODUCTION**

1. Plaintiff, Jason Lee Van Dyke (“Plaintiff” or “Van Dyke”) respectfully requests that this Court enter an order denying Retzlaff’s motion to stay discovery pending the resolution of his motion to dismiss under Rule 12(b)(6).

**ARGUMENT**

2. Plaintiff sees no need to re-urge the legal arguments he made in his response in opposition to Defendant’s 12(b)(6) motion here. Rather, Plaintiff would show this Court that Defendant is now engaging in yet another attempt to re-litigate his unsuccessful anti-SLAPP motion and motion for stay pending a writ of certiorari in this case. A stay of discovery at this stage of the litigation amounts to a stay of the entire case.
3. This case has been pending since March 28, 2018. The discovery deadline in this case is presently set for June 23, 2020. This discovery deadline requires that all written discovery be served on or prior to May 23, 2020 to allow for a timely response, and it

permits a total of five months to schedule depositions.

4. A stay of discovery in this case while this Court considers the numerous complex issues addressed in Defendant's 12(b)(6) motion and Plaintiff's response would significantly decrease the time permitted for discovery on such complex issues. This would harm Plaintiff's ability to prepare and present his case and further delay a case that has been pending for nearly two years without any discovery.

## **II. PRAYER**

5. Defendant elected, as a tactical matter, to litigate his unsuccessful anti-SLAPP motion without simultaneously litigating a 12(b)(6) motion. He now asks the Court to spare him the consequences of this tactical error and grant what amounts to another stay of this case. Plaintiff prays that this Court deny the motion.

Respectfully submitted,

/s/ Jason Lee Van Dyke

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## **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was electronically filed on the CM/ECF System, which will automatically serve a Notice of Electronic Filing on Jeffrey Dorrell, Attorney for Defendant.

/s/ Jason Lee Van Dyke

JASON LEE VAN DYKE